

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MASSACHUSETTS  
3 DOCKET NO. 04-11933-NMG

4 \_\_\_\_\_  
5 SPINIELLO COMPANIES,

6  
7 Plaintiff(s),

8  
9 -vs-

10 BRICO INDUSTRIES, INC.,

11  
12 Defendant(s).  
13 \_\_\_\_\_

14 DEPOSITION UNDER ORAL EXAMINATION OF  
15 THOMAS PORT  
16 PARSIPPANY, NEW JERSEY  
17 SEPTEMBER 28, 2006

18 REPORTED BY: MARY J. DOUGAN-KNECHT, CSR

19 ESQUIRE DEPOSITION SERVICES  
20 90 Woodbridge Center Drive  
21 Woodbridge, New Jersey 07095  
22 (732) 283-1008

23  
24 JOB #7625B  
25

COPY

1 when they hydro test the line.

2 Q. Are there any additional supports  
3 that are used on a transition coupling?

4 A. Not that I know of.

5 Q. And is there any QC that is done at  
6 the factory on transition couplings, that you're  
7 aware of?

8 A. The couplings on a random basis are  
9 tested around, again, a piece of rolled steel to  
10 simulate the outside diameter of the pipe.

11 Q. And have couplings been used on cast  
12 iron pipe?

13 A. Yes.

14 Q. And is there any difference in  
15 performance whether it's a rolled steel or a cast  
16 iron?

17 A. No.

18 Q. What is the variation in diameter  
19 that a Brico transition coupling can accommodate?

20 A. I can't answer that question because  
21 I honestly don't know.

22 Q. Now, what is your current position at  
23 Brico?

24 A. Plant manager.

25 Q. And how is that different from your

1 project in Washington for Spiniello?

2 A. Yes.

3 Q. Were they using Brico Inner Seals on  
4 that project?

5 A. There was one Inner Seal which was  
6 designed specifically to fit in a very unusual  
7 situation.

8 Q. Is there any other occasion in which  
9 you recall manufacturing or supplying seals to  
10 Spiniello?

11 A. No.

12 Q. The seals that are manufactured, are  
13 they a stock item?

14 A. We are a job shop and we only make  
15 what somebody has sold.

16 Q. So is it fair to say that every seal  
17 order is a special order to specific specifications  
18 or dimensions?

19 A. Yes.

20 Q. So you don't sell a stock off the  
21 shelf product?

22 A. The finished products look the same.  
23 They are different dimensionally.

24 Q. So every product that you manufacture  
25 is for a very specific purchaser for a very specific

1 project?

2 A. Yes.

3 Q. You don't sell a generic Inner Seal  
4 band that anyone can use on any project?

5 A. We have a cross-section of rubber  
6 which we generally use for our Inner Seals.

7 Q. But the products that you ultimately  
8 sell are always particular to a project?

9 A. They are manufactured to a project,  
10 yes.

11 Q. And it's your understanding that your  
12 manufacturing processes are guided by the  
13 specifications which are communicated to you from  
14 engineering?

15 A. Correct.

16 Q. The external couplings, are those a  
17 stock off the shelf product or are they manufactured  
18 for a specific job?

19 A. They are manufactured to a specific  
20 job.

21 Q. And what of the external couplings is  
22 specific to each project?

23 A. Could be the width. Could be the  
24 thickness. Could be the style. It's a variety of  
25 things.

1 Q. And when you witnessed the failure of  
2 a seal to be installed on a pipe with beveled ends,  
3 what did you do?

4 A. My real sketchy recollection is that  
5 I made a recommendation to our folks that possibly a  
6 wider piece of rubber might solve the problem to get  
7 away from the beveled surfaces.

8 Q. Do you recall trying to assist the  
9 contractor in installing the seal against the pipe  
10 with the beveled ends?

11 A. Yes.

12 Q. And did you do anything different for  
13 that installation?

14 A. No.

15 Q. In your understanding of seal  
16 testing, would having only 2 of 13 seals pass  
17 testing be abnormal?

18 A. Yes.

19 Q. And prior to this visit and this  
20 problem with Spiniello on the project had you ever  
21 heard of any Brico seals failing in such a large  
22 magnitude?

23 A. No.

24 Q. And do you have any recollection of  
25 the seals that failed on this particular day?

1 Q. But in your experience, when you saw  
2 them adding pressure to the band it was coming up  
3 out of the groove and coming out of the sleeve?

4 A. Actually, it was going into the  
5 sleeve, going into the middle of it.

6 Q. So it was escaping from the groove  
7 and moving to the inside of the joint?

8 A. Correct.

9 Q. Okay. So when you say in paragraph  
10 or group number B on your 8/9/2000 memo, you say the  
11 bands are walking off the sleeve, your recollection  
12 now is that they weren't coming off the sleeve but  
13 they were moving into the middle?

14 A. Walking off of the retained area.

15 Q. You have a group C, bands, Inner  
16 Seals that could not be installed due to a  
17 manufacturing defect.

18 A. Ah huh.

19 Q. What is your recollection of the  
20 manufacturing defect you witnessed?

21 A. We had a few vulcanizations that  
22 broke. Some were between leaving our plant and  
23 being installed in the job.

24 Q. And what is your recollection of what  
25 was broken?

1           A.           The vulcanized joint would break and  
2   open up.

3           Q.           Do you remember, was it broken prior  
4   to the installation of the seal?

5           A.           I have absolutely no earthly idea.

6           Q.           Do you remember if it broke while you  
7   were installing the seal?

8           A.           No recollection.

9           Q.           But a manufacturing defect would have  
10   nothing to do with the contractor's installation  
11   procedures?

12          A.           Of course it would. If he knowingly  
13   installs something that he could see a crack in.

14          Q.           And can you very visibly see a crack  
15   in the vulcanization of the rubber?

16          A.           Not necessarily.

17          Q.           How would you know if there was a  
18   crack or manufacturing defect?

19          A.           Within the process of unrolling.

20          Q.           What would you see in the process of  
21   unrolling?

22          A.           You might see that there are two  
23   loose ends.

24          Q.           That would be if the joint came  
25   completely unglued?

1 attention that there were failures of the external  
2 couplings at this project in Boston?

3 A. No, not to my recollection.

4 Q. Are you aware that --

5 A. I stated earlier I don't remember  
6 even furnishing any couplings to Spiniello.

7 Q. Are you aware that Spiniello was  
8 required to weld restraining rods to the pipes for  
9 use in connection with the Brico couplings?

10 A. I remember a discussion about  
11 somebody having to weld restraining rods to the  
12 outside. I do not know whether it was Spiniello or  
13 whoever.

14 Q. Do you remember what else may have  
15 been discussed in that conversation about welding  
16 restraining rods?

17 A. It was to retain the rubber boot from  
18 coming out from underneath the coupling.

19 Q. Had you ever heard of that having to  
20 be done before with the Brico couplings?

21 A. No.

22 Q. After this project and after you had  
23 that conversation have you become aware of any other  
24 situations in which you heard that someone had to  
25 weld a restraining rod to the pipe?



1 A. No.

2 Q. So in your experience in  
3 manufacturing the external couplings it's safe to  
4 say that it's very uncommon to have to provide any  
5 sort of additional restraint for the coupling?

6 A. Correct.

7 Q. In connection with the manufacturing  
8 for the couplings, are you ever required to  
9 manufacture an additional restraint to be shipped  
10 with those couplings?

11 A. We make a lot of different types of  
12 couplings. So the answer to your question is it  
13 depends on what the customer's requesting and what  
14 the conditions are.

15 Q. Do you recall any situation in which  
16 in connection with a customer's order for external  
17 insulated transition couplings that you were  
18 requested to manufacture additional restraints to go  
19 with those couplings?

20 A. No, I don't, no recollection.

21 Q. Has anyone from Brico or Victaulic  
22 ever discussed with you the damages that Spiniello  
23 claims to have suffered?

24 A. No.

25 MR. BLACKOWICZ: Do you want to take